

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 21ST DAY OF APRIL 2015/1ST VAISAKHA, 1937

WP(C).No. 12587 of 2015 ()

PETITIONER(S):

1. CHEERA, AGED 59 YEARS
D/O. KANNAN, VALLIKETTU COLONY, CHERUPUZHA
KARULAYI P.O., NILAMBUR VIA, MALAPPURAM.
2. BINDU C.P. AGED 37 YEARS
D/O CHEERA, VALLIKETTU COLONY, CHERUPUZHA
KARULAYI P.O., NILAMBUR VIA, MALAPPURAM.

BY ADV. SRI.P.SANJAY

RESPONDENT(S):

1. UNION BANK OF INDIA
NILAMBUR BRANCH, B.P.BUILDING, MAIN ROAD
CHETTIYANGADI, NILAMBUR, MALAPPURAM DISTRICT
PIN:676505.
2. THE DIRECTOR
DEPARTMENT OF SCHEDULED TRIBE DEVELOPMENT, 4TH FLOOR
VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN:695001.
3. PROJECT OFFICER
INDIAN TRIBAL DEVELOPMENT PROJECT (ITBP)
TRIBAL EXTENSION OFFICE, NILAMBUR, PIN:676505.

R1 BY SRI.A.S.P.KURUP, SC, UBI
R2,3 BY GOVERNMENT PLEADER SRI.M.A.FAYAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12587 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE TREATMENT RECORDS OF THE 1ST PETITIONER'S
SISTER.

EXHIBIT P2: TRUE COPY OF THE DEATH CERTIFICATE DATED 18.6.14.

EXHIBIT P3: TRUE COPY OF THE CIRCULAR NO.A2-870/14(2) DATED 22.8.2014
ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P4: THE TRUE COPY OF THE EXTRACT SHOWING PETITIONER'S CASE
RECOMMENDED BY THE 3RD RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE APPLICATION FLED BY THE BANK BEFORE THE
HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI.

EXHIBIT P6: TRUE COPY OF THE REPRESENTATION DATED 11.2.14.

EXHIBIT P7: TRUE COPY OF THE REPRESENTATION DATED NIL.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A.TO JUDGE

C.T. RAVIKUMAR, J.

=====

W.P.(C) No.12587 OF 2015

=====

Dated this the 21st day of April, 2015

JUDGMENT

The petitioners are tribal women living in a colony within Nilambur Forest in Malappuram District. The first petitioner is the mother of the 2nd petitioner. In 2009, they availed a loan from the first respondent bank for constructing a house. Chronic default in repayment of instalments constrained the first respondent to initiate appropriate proceedings under the SARFAESI Act. When this matter is taken up for consideration, the learned counsel for the petitioners submitted that taking note of the straitened circumstances consequent to the unfortunate incidents, vividly explained in the writ petition, occurred in the family of the petitioners they may be granted opportunity to pay off the defaulted arrears simultaneous with the payment of the monthly instalments as scheduled. The learned

counsel for the first respondent submitted that the total amount due under loan transaction is ₹6,25,000/- and the amount in arrears covered under the defaulted instalments is ₹1,18,000/-. Having heard the learned counsel for the first respondent, I am of the view that this writ petition can be disposed of as hereunder:-

The petitioner shall repay the amount in arrears falling towards defaulted instalments viz., 1,18,000/- in twelve equal monthly instalments commencing from 20.5.2015. Needless to say that the subsequent instalments shall be paid on or before 20th of the succeeding months. The petitioners shall also continue to pay the regular instalments as scheduled. In case of failure on the part of the petitioners to effect payments as above it will be open to the first respondent to take appropriate action in accordance with law. The learned counsel for the petitioners submitted that the petitioners are also entitled to get the benefit of Exts.P3 and P4. The learned counsel for the first respondent submitted that the liability towards loan transaction cannot

be written off in the light of Exts.P3 and P4. Nonetheless, it is made clear that it will be open to the petitioners to approach the appropriate authority under the Government to get the benefit, if available, under Exts.P3 and P4 and at the same time, that shall not be a reason for committing default in effecting payments in terms of the directions made hereinbefore.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010

